

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ENTERED ON
AUG - 3 2009
DOCKET

IN RE:	: CHAPTER 11
	:
MICHAEL A. GREGORAKOS	: CASE NO 09-78940-MHM
	:
Debtors.	:

GRP LOAN, LLC,	:
	:
Movant,	: CONTESTED MATTER
	:
vs.	:
	:
MICHAEL A. GREGORAKOS	:
	:
Respondents.	:

ORDER GRANTING *IN REM* RELIEF FROM STAY

Movant filed an Emergency Motion for *In Rem* Relief from Automatic Stay July 22, 2009 [Doc No. 4] (the "Motion"). Hearing was held **July 30, 2009**, at which time the Court heard arguments of counsel for Movant and Debtor, who is proceeding *pro se* (the "Hearing"). Movant seeks relief as to the real property located in Cobb County, Georgia known as 3184 Robinson Rd., Marietta, GA 30068 as more particularly described on Exhibit "A" attached to the Motion (the "Property"). Movant asserts that the Motion was properly served and hearing properly noticed. The Property has been involved in several bankruptcy filings. Including the instant case, Debtor and others have filed four cases with respect to the Property:

- Michael A. Gregorakos filed **Case No. 08-62286-MHM**, a chapter 11, February 5, 2008. Movant filed a *Motion for Relief from Stay and Request to Validate the Foreclosure Sale* February 11, 2008 [Doc. No. 12]. An order granting that motion was entered March 24, 2008 [Doc. No. 23]. The case was subsequently dismissed by consent October 9, 2008 [Doc. No. 53].
- Michael E. Jones, the purported cook for the Gregorakos family, filed Chapter 7 **Case No. 08-76049-MHM**, August 19, 2008. Movant filed a *Motion for Relief* September 5, 2008 [Doc. No. 11]. An order granting that motion was entered September 30, 2008 [Doc. No. 14]. The case was dismissed March 9, 2009 [Doc. No. 21].
- Mary Gregorakos, the mother of Michael, filed Chapter 13 **Case No. 09-72614-MHM** May 15, 2009. Movant filed an *Emergency Motion for Relief* May 15, 2009 [Doc. No. 4] and amended that motion to include a brief in support thereof, June 1, 2009 [Doc. No. 13]. An order granting that motion was entered June 24, 2009 [Doc. No. 15]. Having filed neither Schedules¹ nor a Chapter 13 plan, Mary Gregorakos filed a Motion to Voluntarily Dismiss the case July 30, 2009 [Doc. No. 20].
- Michael A. Gregorakos filed the instant proceeding, Chapter 11 **Case No. 09-78940-MHM** July 22, 2009.

¹ Section 521(a) and Bankruptcy Rule 1007(b) require a debtor to file schedules of assets and liabilities, a schedule of current income and expenditures, a schedule of executory contracts and unexpired leases, and a statement of financial affairs (the "Schedules").

It appears that the debtors in the four cases described above may have filed those cases in order to litigate what those debtors assert was a wrongful foreclosure by Movant. While that issue, if properly presented, might have been addressed by this court, it is not appropriate to do so now; the substance of that issue should be addressed now in the state courts. The multiple filings by Debtor, his mother and his employee – without reasonable efforts to make the mortgage payments before foreclosure or *quantum meruit* rent since – appear to be continuing to delay without prospect of a reorganization. Accordingly, it is hereby

ORDERED that the Motion is *granted*: the automatic stay of 11 U.S.C. § 362 is **MODIFIED** to allow Movant to proceed to obtain possession of the Property in pursuit of its state law remedies, including commencing or continuing dispossessory proceedings. It is further

ORDERED that pursuant to 11 U.S.C. § 362(d)(4), the *in rem* relief requested by Movant is *granted*: any future bankruptcy filings by Debtor or others claiming an interest in the Property will not stay Movant from enforcing its state law rights and remedies with respect to the Property, independent of and apart from the action on wrongful foreclosure to be addressed by the Superior Court of Cobb County. Movant is authorized to record a copy of this *in rem* Order with the Clerk of the Superior Court in Cobb County in the land records in accordance with applicable state law.

IT IS SO ORDERED, this the 31st day of July, 2009.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE

Draft Prepared and Submitted by:

/s/Lisa F. Caplan

Lisa F. Caplan

Attorney for Movant

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